



State of New Jersey

Department of Environmental Protection

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Bradley M. Campbell
Commissioner

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Land Use Regulation Program
P. O. Box 439, Trenton, NJ 08625-0439
Fax # (609) 777-3858
www.state.nj.us/dep/landuse

PROJECT MANAGEMENT

January 3, 2003

JAN 08 2003

George Soule
60 Feronia Way
Rutherford, NJ 07070

RE: Authorization for Freshwater Wetlands Statewide General Permit (FWGP) No. 11,
Transition Area Waiver for Linear Development, and a Water Quality Certification

LURP File No.: 1316-02-0015.1 - 020001 FWGP11, TAW

Applicant: NJ Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

Project: Route 9 at County Route 522
Freehold, Monmouth County
Weamaconk Creek
Raritan River Basin

Dear Mr. Soule:

The Land Use Regulation Program has reviewed the referenced application for a Statewide General Permit authorization pursuant to the requirements of the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A. The proposed activity is authorized by **Statewide General Permit No. 11**, which authorize activities in freshwater wetlands, transition areas, and/or State open waters for the construction or expansion of drainage structures. The proposed activity is also authorized by a **Transition Area Waiver for Linear Development** for the relocation of quiderrail and minor berm regrading. This authorization includes a **Water Quality Certification**.

Limit of Authorized Disturbance

The authorized activities are the minimum necessary disturbances to wetlands, State open waters, and transition areas for the relocation of quiderail, berm amendments, and the installation of an outfall structure with riprap energy dissipation (0.002 acres wetland disturbance FWGP 11), according to documents received September 5, 2002 and with subsequent revisions received December 17, 2002. This permit authorization is based on the following plan sheets prepared by George Soule:

- 1 (dated 4/19/02) entitled, "Key,"
- 2 (dated 5/6/02) entitled, "Legend and General Notes,"
- 3 (dated 5/6/02) entitled, "Plan Sheet Index,"
- 4-12 (dated 5/6/02) entitled, "Construction Plan,"
- 13 & 14 (dated 5/6/02) entitled, "Grades,"
- 15 (dated 5/6/02) entitled, "Construction Details,"

Any additional disturbance of wetlands, transition areas and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless the activity is exempt or a permit is obtained prior to the start of the disturbance from the Land Use Regulation Program.

Permit Conditions

The activities allowed by this authorization shall comply with the following conditions. Failure to comply with these conditions shall constitute a violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 *et. seq.*).

Special Conditions

- 1) The cartway, shoulder, and side slopes of the roadway shall be the minimum necessary for meeting design safety standards.
- 2) The total amount of disturbance associated with this authorization shall not exceed 0.02 acres of wetlands.
- 3) Temporary disturbances including those associated with the installation of the stormwater pipe to the proposed outfall structure must be restored through grading and landscaping as necessary and include:
 - (a) The area of temporary disturbance to transition areas must be replanted with native, indigenous species. The areas should be planted with native trees that are known to grow to sufficient height to provide partial shade for the open water areas in the vicinity. The plantings should take into consideration the pipe location and root growth requirements. This replanting shall be performed immediately after activities that will temporarily disturb the environment.
- 4) From May 1 thru June 30 of each year, no near stream sediment generating activities shall be conducted that would adversely affect warmwater fish spawning in Weamaconk Creek.

- 5) From **November 15 thru April 1** of each year, no work is permitted within the stream and stream banks to protect wood turtle hibernating areas. During **April 1 to June 30 of each year, no work is permitted within NJDEP jurisdictional areas** to protect wood turtles. Construction activities during these restricted periods can be conducted for those areas that have been surveyed for the presence of turtles at an appropriate time of year and immediately prior to their containment within silt fence enclosures to prevent turtles from reentering the construction area. The proposed methods and timing of the survey and containment perimeter of the work areas will require review and concurrence by NJDEP prior to conducting work during the restricted periods.
- 6) Wetland, State open water, and transition area disturbances associated with any utility relocations and any other temporary excavation shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P. 2.
 - a) The upper-most 18-inches of any temporary excavation is backfilled with the original soil material, where feasible, and otherwise with suitable material that shall be free of toxic pollutants (see CFR 401) in toxic amounts. The excavation must be backfilled to the preexisting elevation.
- 7) The stream bank must be restored with native vegetation and stabilized with the use of bioengineering materials, such as biologs, fiber matting, etc., except where riprap is required.
- 8) The temporary storage of equipment, materials, and refueling activities shall not be located in regulated areas of open water, wetlands, or transition areas.
- 9) Downstream areas must be protected from excess turbidity during construction. Silt fences and turbidity barriers must be installed prior to the commencement of construction activities and encompass all work in regulated areas.
- 10) A temporary dewatering basin must be installed for any in-stream work where return discharges can release turbid water downstream. Any dewatering requires use of a temporary sediment basin to settle out suspended sediments. The return water is to be discharged to a point on the watercourse that is encompassed by turbidity barrier.
- 11) The disposal of excess excavated material and demolition debris must be placed and/or temporarily stockpiled outside of freshwater wetlands, transition areas, State open waters, and areas regulated under the Flood Hazard Area Control Act Rules.
- 12) Areas of excavation are to be assessed for the potential presence of acid-producing deposits; a mitigation plan, if necessary, is to be prepared in accordance with the NJDEP Technical Manual Land Use Regulation Program Bureau of Inland and Coastal Regulations, Stream Encroachment Permits Section 2.5-2 & -3; and the assessment and mitigation are to be submitted to the NJDEP for review prior to excavation.

- 13) The exact placement of plant materials at the Monmouth Battlefield State Park shall be coordinated with the NJDEP Division of Parks and Forestry (Garry Stone, Principal Historic Preservation Specialist).

In addition to the above conditions and the conditions noted at N.J.A.C. 7:7A-4 and -13, the following general conditions must be met for the activity authorized under this Statewide General Permit:

General conditions:

1. All fill and other earth work on the lands encompassed within this permit authorization shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" to prevent eroded soil from entering adjacent waterways or wetlands at any time during and subsequent to construction.
2. This permit is revocable in accordance with DEP regulations and State law.
3. The issuance of this permit shall not be deemed to affect in any way other actions by the Department on any future application.
4. The activities shown on the approved plans shall be constructed and/or executed in conformity with any notes and details on said plans and any conditions stipulated herein.
5. No change in plans or specifications shall be made except with the prior written permission of the Department.
6. The granting of this authorization shall not be construed to in any way affect the title or ownership of the property, and shall not make the Department or the State a party in any suit or question of ownership of the property.
7. This permit is not valid and no work shall be undertaken pursuant to this authorization until all other required federal, state, and local approvals, licenses and permits necessary for commencement of work onsite have been obtained.
8. A complete, legible copy of this permit shall be kept at the work site and shall be exhibited upon request of any person.
9. The permittee shall allow the Program the right to inspect the construction site and also shall provide the Bureau of Coastal and Land Use Enforcement, NJDEP with written notification 7 days prior to the start of the authorized work.
10. This authorization is valid for five years from the date of this letter unless more stringent standards are adopted by rule prior to this date.

Transition Area

The wetland affected by this permit authorization is of exceptional resource value and the standard transition area or buffer required adjacent to it is 150 feet. A Transition Area Special Activities Waiver for Linear Development includes a transition area waiver that allows encroachment only in that portion of the transition area that has been determined by the Department to be necessary to accomplish the regulated activities as shown on the approved plans. Any additional regulated activities conducted within standard transition areas shall require a separate transition area waiver from the Program. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.6.

Appeal of Decision

In accordance with N.J.A.C. 7:7A-1.7, any person who is aggrieved by this decision may request a hearing within 30 days of the decision date by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, CN 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist.

If you have any questions regarding this authorization, please contact William Mc Laughlin of our staff at (609) 984-0194, at the address listed above, or by email

William.McLaughlin@dep.state.nj.us. Please reference the above file number in all correspondence.

Sincerely,


Robert N. Cubberley
Environmental Scientist 2
Bureau of Inland Regulation

WMcL

c. ~~to: Pamela Garret, NJDOT~~
Larry Torok
Bureau of Enforcement
Freehold Township Municipal Clerk
Freehold Township Municipal Construction Official